IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 15.12.2004

Coram

The Honourable Mr.Justice V.KANAGARAJ

Crl.OP.No. 38363 of 2004
and
Crl.M.P.No.12139 of 2004

K.R.Govindarajulu ...Petitioner/Accused

-vs-

K.Govindaraj ...Respondent/Complainant

Petition filed under section 482 Cr.P.C. for the relief as stated therein.

For Petitioner : Mr.S.Pannerselvan

ORDER

The petitioner has filed the above Criminal Original petition against the order dated 28.9.2004 made in Crl.R.C.No.4 of 2004 on the file of Additional District Judge(Fast Track Court No.I) Salem confirming the order in Crl.M.P.No.3187 of 2003 in C.C.No.203 of 2003 dated 9.1.2004 on the file of Judicial Magistrate NO.V,Salem.

2. The cheque issued by the petitioner for a sum of Rs.8500/- towards the discharge of the debt due to the respondent was returned by the bank for the reason "no sufficient funds"; that the private complaint filed by the petitioner was taken on file in C.C.No.203 of 2003; that after questioning under section 313 Cr.P.C, the petitioner filed an application under section 311 Cr.P.C. for recalling P.W.1and the same was allowed; that thereafter the petitioner filed an application under section 45 of Indian Evidence Act in Crl.MP.No.3187/2003 for sending the cheque to the handwriting expert forensic laboratory for comparing the signature found on the cheque; that Judicial Magistrate, No.V, Salem dismissed the petition; that against the same the petitioner filed Criminal Revision Petition 4 of 2004 before the Additional District Judge, Salem and that learned Judge by his order dated 28.9.2004 dismissed the same and

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confirmed the order of the trial court. Hence, the above Criminal Original Petition filed by the petitioner for the relief as stated supra.

3. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for the petitioner, prima facie since the petitioner is the drawer of the cheque in whose custody the cheque book should have been kept in and utilised, particularly in view of the fact that the petitioner has not taken any step to allege that the cheque was stolen or misused by somebody else, absolutely no case is made out and since the Court has every reason to presume that the signature is that of the drawer of the cheque and hence, no other verification need be necessary. Since this cheque which has been dealt with and ordered by the bank, with which the petitioner has got regular account and if at all any anomaly is there, the bank could have definitely remarked on such change of signature since specimen signature is always kept in the bank. All these will go to show that no more verification of the signature need be necessary. Hence, the lower court has not committed any thing wrong or error in passing the order of dismissing the application filed on the part of the petitioner. Hence, the following order.

In result,

i) The above Criminal Original Petition fails and the same is dismissed.

ii) The order made by the Additional Sessions Judge, (Fast Track Court No.I, Salem) in Crl.R.P.No.4 of 2004 is hereby confirmed.

iii) Consequently, connected Crl.MP.NO.12139 of 2004 is also dismissed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

The Additional District Judge
(Fast Track Court No.I)
Salem.

2. -do- Thro' the Prl district and Sessions Judge, Salem.

3. The Judicial Magistrate No.V, Salem

4. -do- Thro' the Chief Judicial Magistrate, Salem

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